

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2008-____-T

IN RE: Petition of the Office of Regulatory)	
Staff to Revoke Certificates of)	
Public Convenience and)	PETITION FOR RULE TO
Necessity of Daniel Saporita d/b/a)	SHOW CAUSE
Limoscene)	

The Office of Regulatory Staff, by filing this petition, would respectfully show and request of the Commission:

1. That the Public Service Commission of South Carolina (“the Commission”) is a state agency constituted pursuant to the laws of the State of South Carolina with its business offices located in Columbia, South Carolina; that the Commission is responsible for the regulation of motor vehicle carriers operating for compensation as set forth in S.C. Code Ann. §58-23-10 et seq. (Supp. 2007); that the Office of Regulatory Staff (“ORS”) is charged with the duty to protect the public interest pursuant to S.C. Code Ann. § 58-4-10, et seq.

2. That the Respondent Daniel Saporita d/b/a Limoscene (“Limoscene” or “Respondent”) is currently operating as a “motor vehicle carrier” as defined in S.C. Code Ann. §58-23-10(4) (Supp. 2007) in that it does own, control, operate, or manage motor propelled vehicles, not usually operated on or over rails, used in the business of transporting persons or property for compensation over improved public highways in this state.

3. That the Respondent is subject to the jurisdiction of this Commission pursuant to S.C. Code Ann. §58-23-1010 et seq. (Supp. 2007); further, that this company submitted itself to the

jurisdiction of the Commission by their holding a Certificate of Public Convenience and Necessity as indicated in Exhibit A. See Exhibit A, Class C Limousine Certificate Number 6594-B.

4. That the Respondent, upon receiving its Certificate of Public Convenience and Necessity, was found to be fit, willing and able to operate as a motor carrier by the Commission; that such authority found the company was “familiar with all statutes and regulations, including safety regulations, governing for-hire motor carrier operations in South Carolina” and that they “agree to operate in compliance with these statutes and regulations” [26 S.C. Code Regs. 103-133(4)(a) (Supp. 2007)]; further, that the company was “aware of the Commission's insurance requirements and the costs associated therewith” [26 S.C. Code Regs. 103-133(4)(b) (Supp. 2007)].

5. That “Limousine” is defined by the South Carolina Public Service Commission regulations governing the operation of motor vehicle carriers as “A ‘Limousine’ is a passenger carrier utilizing luxury vehicles and/or vans equipped to carry up to fifteen (15) passengers. A ‘Limousine’ includes sport utility vehicles and town cars.” 26 S.C. Code Regs. 103-102(22) (Supp. 2007).

6. That “Charter Bus” is defined as “a motor vehicle carrying 16 or more passengers. However, a limousine shall not be considered a charter bus.” 26 S.C. Code Regs. 103-102 (20) (Supp. 2007). As stated in Paragraph 5 herein, a “Limousine” means only passenger carriers equipped to carry **up to** fifteen (15) passengers.

7. That on March 20, 2008, ORS Officer Jonathan Teeter observed a vehicle owned and operated by employees of the Respondent transporting 17 passengers for compensation on Highway 17 in Georgetown County, South Carolina in a Hummer bus. Officer Teeter informed the operator of the vehicle that based on the number of passengers being transported in the vehicle and its capacity that Respondent must apply for and obtain certification to operate as a Charter Bus operator under existing Public Service Commission regulations. Officer Teeter observed the same vehicle and driver operating at a prom in the Myrtle Beach, South Carolina area later that same day and provided the driver with an application for charter bus authority to provide to Respondent.

8. In April 2008, Officer Teeter obtained a copy of the recently issued Hargray Telephone Company directory and observed an advertisement placed in that directory by Respondent. The advertisement by Respondent asserted that he could transport up to eighteen (18) passengers under pictures of two (2) SUV vehicles. After reading this advertisement, Officer Teeter contacted the Respondent and informed him both of his prior conversation with the driver of Respondent's vehicle in March 2008 and reiterated the need for Respondent to obtain Charter Bus authority to operate vehicles capable of carrying more than 15 passengers.

9. On May 6, 2008 Officer Teeter inspected two SUV stretch vehicles on the Respondent's premises along with Respondent and employees of the Respondent. Officer Teeter counted the seatbelts in both vehicles and calculated a total of sixteen (16) seating positions in one vehicle and seventeen (17) in the other. Based on this inspection and the number of seating positions in the vehicles, Officer Teeter again informed Respondent that he needed to apply for Charter Bus authority as the passenger limits of his vehicles exceeded the authority provided under his Limousine certificate. See, Exhibit B, Statement of Officer Jon Teeter.

10. On August 2, 2008, Officer Teeter issued a citation to one of the Respondent's employees for operating a vehicle defined under Public Service Commission Regulations as a "Charter Bus" without proper authority.

11. On September 3, 2008, Dawn Hipp, ORS Director of Telecommunications, Transportation, Water and Wastewater and George Parker, Transportation Program Manager met with Respondent in Myrtle Beach to inspect the two SUV stretch vehicles and discussed the Commission regulations governing Class C Charter and Class C Charter Bus operations.

12. During the September 3, 2008 inspection, ORS determined the H2 Hummer and the Cadillac Escalade met the requirements of a Class C Charter Bus and did not meet the requirements of a Limousine according to 26 S.C. Code Regs. 103-102 (20) (Supp. 2007) and 26 S.C. Code Regs. 103-102(22) (Supp. 2007) respectively.

13. ORS determined the H2 Hummer and the Cadillac Escalade are capable of transporting 17 and 18 passengers respectively including the driver. ORS used Seating Capacity as defined by the Code of Federal Regulations Title 49, parts 40, Parts 325, 350 & 355 – 399.

14. In a letter to Respondent dated September 4, 2008, ORS communicated the results of the inspection and summarized the regulation review conducted on September 3, 2008. ORS provided Respondent seven (7) business days in which to file a Class C Charter Bus application with the Commission. See Exhibit C.

15. That as of the date of this Petition, Respondent has failed to file a Class C Charter Bus certificate application with Commission.

16. That based on the aforesaid facts, ORS believes that Respondent has and continues to operate vehicles defined as a “Charter Bus” without proper certification of the Commission. Further, that in so doing Respondent is willfully violating the terms of his Class C Limousine certificate, No.6594-B.

18. That “the Commission may, at any time, by its order, duly entered, after a hearing had upon notice to the holder of any certificate hereunder at which such holder shall have had an opportunity to be heard and at which time it shall be proved that such holder has willfully made any misrepresentation of a material fact in obtaining his certificate or willfully violated or refused to observe the laws of this State touching motor vehicle carriers or any of the terms of his certificate or of the Commission's proper orders, rules or regulations, suspend, revoke, alter or amend any certificate issued under the provisions of Articles 1 to 11 of this chapter.” S.C. Code Ann. §58-23-320 (Supp. 2007).

WHEREFORE, the ORS staff prays that the Honorable Commission:

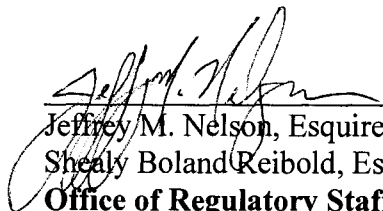
1. Issue an order requiring Respondent to appear before the Commission and show cause why his Class C Limousine Certificate of Public Convenience and Necessity (No. 6495-B) should not be revoked by this Commission pursuant to 26 S.C. Code Regs. 103-240 (Supp. 2007);

2. Schedule and conduct a formal administrative hearing as soon as practicable to address disputed issues of fact and law regarding the Certificate which the ORS seeks to have revoked by the Commission in this action pursuant to 26 S.C. Code Regs. 103-240 (Supp. 2007) and S.C. Code Ann. §58-23-320 (Supp. 2007).

3. Following the formal administrative hearing, immediately rule to Order Respondent to apply for and obtain from the Commission a Class C Charter Bus or, in the alternative

4. Following the formal administrative hearing immediately rule to revoke the Class C Limousine Certificate of the Respondent in accordance with the authority provided the Commission under S.C. Code Ann. §58-23-320 and thereafter immediately enter a final Order.

5. For other appropriate action which the Commission may deem necessary.


Jeffrey M. Nelson, Esquire
Shealy Boland Reibold, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201

September 17, 2008
Columbia, South Carolina

Office of Regulatory Staff
Columbia, South Carolina



PSC Docket No. 1998-164-T
PSC Order No. 2005-353
ORS Certificate No. 6594-B

CLASS C CHARTER

**Certificate of Public Convenience and Necessity
For the Operation of
MOTOR VEHICLE CARRIERS**

NAME: DANIEL SAPORITA D/B/A LIMOSCENE
ADDRESS: 152 CLOVIS CIRCLE, MYRTLE BEACH, SC 29579

is hereby authorized, pursuant to the order of the Public Service Commission of South Carolina, to furnish passenger service by means of motor propelled vehicles as follows:

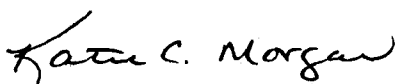
**BETWEEN POINTS AND PLACES IN SOUTH CAROLINA,
RESTRICTED TO: FIFTEEN (15) PASSENGERS.**

THIS CERTIFICATE is issued upon finding by the Public Service Commission, that Public Convenience and Necessity require such operation, under the terms of the Motor Vehicle Carriers' Law (Sections 58-23-10 – 58-23-60 of the South Carolina Code of Laws, 1976, and amendments thereto), and,

CONDITIONED: That all motor vehicles operated by virtue of this Certificate shall be so operated in accordance with the said Motor Vehicle Carriers' Law and the Rules and Regulations issued thereunder, and,

CONDITIONED FURTHER: That neither this Certificate nor the rights granted herein shall be sold, assigned, leased, transferred, mortgaged, pledged, or otherwise hypothecated, unless first approved by the Commission.

DATED at Columbia, South Carolina, this 14TH day of JULY A.D., 2005.



Katie C. Morgan, Director
Transportation, Telecommunications
Water/Wastewater

From: Teeter, Jonathan
Sent: Sunday, August 03, 2008 10:20 AM
To: Nelson, Jeff
Cc: Parker, George
Subject: LIMOSCENE

EXHIBIT B

In reference to Limoscene in dealing with his Charter Bus Vehicles.

On March 20th I followed one of Limoscene's Limousines (Bus) on Highway 17 towards Georgetown as he had yet to purchase ORS decals for the windshield. Limoscene along with numerous other limousines were operating at an event to reward school children in the Georgetown area (for compensation). In observing Limoscene on that day they unloaded 17 individuals out of their Hummer stretch limousine and when I questioned the driver he stated that they do carry up to 18 passengers. At this time I talked with the owner of Limoscene and explained that he needed to apply for Class C Bus Authority on his Hummer Bus. Later that night I left an application for Bus Authority with the driver of the Hummer as he was operating in Myrtle Beach at an area prom.

In April the new HTC phone book came out and Limoscene had a full page add under limousines where he has 18 passengers printed under the pictures of his 2 SUV vehicles. I talked with the owner again and explained that he could not advertise for a service that he does not currently have authority to operate.

Over the next few weeks I had discussions with the owner of Limoscene and also with some of his drivers and I tried to explain the importance of obtaining Class C Bus Authority for his vehicles. On one occasion while at ORS I talked with the owner and also had George Parker explain the process to him also. I then scheduled a day to go to the company and count the seatbelts on his 2 stretch vehicles.

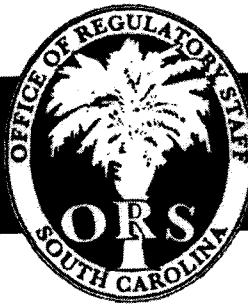
On May 6, 2008 I inspected the 2 SUV stretch vehicles along with the owner and a few of his drivers. At that time after counting equipped seating positions for 16 and 17 on each of his vehicles I again told the owner he needed to apply for C Bus Authority through the PSC.

On August 2, 2008 I issued one of his vehicles a citation for operating with no Intrastate Bus Authority for \$885 and I observed his second SUV Stretch also operating but did not issue this vehicle a citation at the time.

Jonathan Teeter
SCORS
Transportation Inspector

C. DUKES SCOTT
EXECUTIVE DIRECTOR

1401 Main Street, Suite 900
Columbia, SC 29201



DAN F. ARNETT
CHIEF OF STAFF

Phone: (803) 737-0800
Fax: (803) 737-0801

DAWN M. HIPPIE
DIRECTOR

TELECOMMUNICATIONS, TRANSPORTATION, WATER/WASTEWATER

September 4, 2008

Mr. Daniel Saporita
Limoscene
152 Clovis Circle
Myrtle Beach, SC 29579

Subject: ORS Inspection of Limoscene Vehicles

Dear Mr. Saporita,

Thank you for meeting with George Parker and me yesterday (September 3, 2008) in Myrtle Beach to inspect your vehicles and discuss the Public Service Commission of South Carolina's ("Commission") regulations governing Class C Charter and Class C Charter Bus operations. Per our discussion, this letter summarizes the Office of Regulatory Staff ("ORS") inspection findings and our discussion.

ORS inspected two vehicles owned and operated by Limoscene on September 3, 2008, in the Comedy Cabana parking lot. The ORS inspection included a review of the vehicle weight, vehicle customization and seating capacity. ORS took photos of each vehicle during the inspection.

ORS measured seating capacity according to Federal Motor Carrier Safety Regulations (July 2007 Revision) definition of "Any bench or split bench seat in a passenger car, truck or multi-purpose passenger vehicle with a gross vehicle weight rating less than 10,000 pounds, having greater than 50 inches of hip room (measured in accordance with SEA Standards J1100 (a)) shall have not less than three designated seating positions, unless the seat design or vehicle design is such that the center position cannot be used for seating." Using this standard, a seating position equals 16.6".

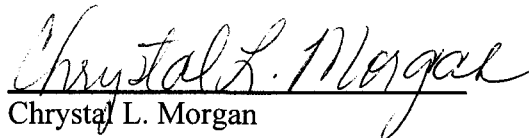
- 1) H² Hummer (LS2084)
 - Seat Configuration: Bench seating with lounge design
 - Seat Belts: 14 functioning seatbelts (including driver) at time of inspection
 - Seating Capacity:
 - Left bench = 118" or 7 seats
 - Right bench = 110" or 6 seats

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2008-____-T

Petition of the Office of Regulatory Staff to)	
Revoke Certificates of Public Convenience and)	CERTIFICATE OF SERVICE
Necessity of Daniel Saporita d/b/a Limoscene)	

This is to certify that I, Chrystal L. Morgan, have this date served one (1) copy of the **PETITION FOR RULE TO SHOW CAUSE** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Daniel Saporita d/b/a/ Limoscene
152 Clovis Circle
Myrtle Beach, SC 29579


Chrystal L. Morgan

September 18, 2008
Columbia, South Carolina